

THE ROLE OF THE NORTH SUMATERA PROVINCE GENERAL ELECTION SUPERVISORY BODY IN HANDLING 2024 ELECTION VIOLATIONS

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Abstract

This study aims to analyze the role of the General Elections Supervisory Agency (Bawaslu) of North Sumatra Province in handling violations of the 2024 Election. This study uses an empirical juridical method with a statutory regulatory approach and an empirical approach. Data were obtained through interviews and observations, and supported by primary and secondary legal materials. The results show that the Bawaslu of North Sumatra Province has carried out its role in handling election violations in accordance with statutory provisions. However, in practice, there are still normative obstacles in the form of legal gaps and multi-interpretable norms in the Election Law, Bawaslu Regulations, and technical guidelines for handling violations, which affect legal certainty in handling election violations.

Keywords: *Bawaslu, Election Violations, Supervisory Authority*

INTRODUCTION

General elections are the primary means of implementing popular sovereignty in a democratic system, as mandated by Article 22E of the 1945 Constitution of the Republic of Indonesia. Through elections, the people directly elect their representatives in representative institutions and elect national and regional leaders. Therefore, general elections must be conducted directly, publicly, freely, secretly, honestly, and fairly to realize a democratic government with integrity. In the practice of general elections, the potential for violations is unavoidable. Election violations can include administrative violations, violations of the election organizers' code of ethics, and even election crimes. If not handled effectively, these violations can undermine democratic principles and undermine public confidence in the election process and results.

To ensure democratic elections, an independent and professional election monitoring body is required. The General Elections Supervisory Agency (Bawaslu) was established as an election management body with the authority to supervise, prevent, and take action against election violations. Bawaslu's existence is strategic in maintaining the integrity and quality of electoral democracy in Indonesia. The 2024 General Election is highly complex, both in terms of the number of participants, political dynamics, and developments in information technology, which influence patterns of election violations. North Sumatra Province, as a region with dynamic political characteristics and a relatively high level of election vulnerability, requires an active and optimal role from the North Sumatra Provincial Elections Supervisory Agency (Bawaslu) in addressing various forms of election violations.

According to Ali Murtopo, in this case a General Election is a place provided for the people to hold elections to exercise sovereignty and also as an institution that has democracy. According to Miriam Budiardjo, general elections held directly by the people are a concrete manifestation of popular sovereignty. Through this mechanism, the people assert their right to determine the direction of government, thus establishing a democratic government. To truly ensure the meaning of popular sovereignty, elections must be conducted based on the principles of directness, generality, freedom, confidentiality, honesty, and fairness, and handled by authorized, independent, and professional election organizers. In the Indonesian context, the six principles of direct, general, free, secret, honest, and fair democratic elections are affirmed in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia and are further elaborated in election legislation. In addition to these principles, the practice of organizing elections also demands standards of transparent, accountable, orderly, and professional implementation. Because they are often referred to as a "democratic celebration," elections should take place in a safe and civilized

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atmosphere, not filled with hostility or disinformation. Elections with integrity tend to produce leadership with integrity, which ultimately encourages clean governance that sides with the interests of the people. Ali Moertopo views elections as a means provided for the people to exercise their sovereignty in accordance with the principles contained in the Preamble to the 1945 Constitution. In this sense, elections are understood as a democratic institution to elect people's representatives in representative institutions at both the central and regional levels who then play a role together with the government in determining policies and the direction of the implementation of state governance. In line with this, Suryo Untoro emphasized that elections are the process by which Indonesian citizens, who have the right to vote, elect their representatives to sit in representative bodies, specifically the House of Representatives (DPR). Therefore, elections serve as the primary mechanism for channeling the political mandate from the people to their trusted representatives.

Popular sovereignty exercised through representative mechanisms is commonly called representative democracy or indirect democracy. In this model, popular sovereignty is exercised by representatives who sit in parliament and act on behalf of the people in determining the character, programs, and objectives of government administration for both short-term and long-term interests. This idea intersects with Jean-Jacques Rousseau's thinking on the "general will" (volonté générale), namely that popular sovereignty is realized through the general will enshrined in law. General elections are a key pillar of the process of accumulating the will of the people of Indonesia, which has established itself as a democracy. Plans for general elections in Indonesia were in place three months after independence was proclaimed, but they were actually held in the tenth year after independence, in 1955. Indonesia has now held 11 general elections.

- a. 1955 Electionwas the first successful general election held in Indonesia. The direction for holding the election had actually been conveyed since the beginning of independence through the Decree of Ir. Soekarno and the Decree of Vice President Drs. Mohammad Hatta dated November 3, 1945, which recommended the formation of political parties. In this mandate, the election was planned to elect members of the People's Representative Council (DPR) and the People's Consultative Assembly (MPR) in January 1946. However, due to various considerations, both originating from domestic and external factors, this plan was not implemented, so that the election could not be held until September 29, 1955, to elect members of the DPR and on December 15, 1955, to elect members of the Constituent Assembly. The failure to hold the election in 1946 was influenced by several obstacles. Internally, the government was considered unprepared, especially regarding legal instruments (legislation) and readiness to hold elections, in addition to the state's unstable security conditions which were not yet conducive. In addition, there were also political factors in the form of the government's reluctance to organize a regular and competitive circulation of power. Meanwhile, external factors related to pressure and armed conflict involving foreign powers plunged the country into protracted warfare. This situation only eased after the transfer/restoration of sovereignty from the Dutch government to the Republic of Indonesia through negotiations.
- b. 1971 ElectionApproximately sixteen years after the last election, democracy returned on July 5, 1971. The election took place under the relatively new New Order regime, and in response to strong public pressure for the resumption of democracy. During this period, Indonesia had returned to a unitary state, having previously existed as a federal state in 1949, the Republic of the United States of Indonesia (RIS). During this transitional period, President Soeharto did not immediately hold elections as a means of legitimizing his power. Therefore, the second election was not held until July 5, 1971, approximately four years after Soeharto assumed the presidency. In the lead-up to the 1971 election, the government, along with the Gotong Royong House of Representatives (DPR Gotong Royong) (the House of Representatives formed during President Soekarno's administration), completed the drafting of Law Number 15 of 1969 concerning Elections and Law Number 16 of 1969 concerning the Composition and Status of the MPR, DPR, and DPRD. The process of formulating and finalizing these two laws took almost three years. One of the things that differentiated the 1971 Election from the 1955 Election was the existence of regulations that emphasized the obligation of neutrality for state officials in the implementation of the 1971 Election.
- c. 1977–1997 electionsFollowing the 1971 elections, regular elections began to be held more orderly. The third election was held approximately six years later, in 1977. After that, elections were generally scheduled every five years. A notable difference in the 1977 election compared to subsequent elections was the increasingly simplified number of participants. Beginning in 1977, the contest was contested by two political parties and one Functional Group (Golkar). This simplification occurred after the government and the House of Representatives (DPR) approved Law Number 3 of 1975 concerning Political Parties and Functional Groups. In this simplification policy, the government considered the parties' ideological foundations and their base of support within the community. Ultimately, the two main parties emerged as participants: the United Development Party (PPP) and the Indonesian

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Democratic Party (PDI), with Golkar as the other participant. The PPP was positioned as a political force with ideological orientation and roots in the Islamic masses. Meanwhile, nationalist parties, including those based on the abangan masses and non-Muslim groups, were merged into the PDI, while various work organizations were directed to unite in Golongan Karya.

- d. 1999 Election After President Suharto resigned on May 21, 1998, the position of head of state was transferred to Vice President Bacharuddin Jusuf Habibie. Amidst intense public pressure, calls emerged for an accelerated election. During the debate, Golkar refused to be categorized as a political party, positioning itself as a social organization that claimed to represent working people who participated in the administration of government without going through party channels. The election was then held on June 7, 1999, approximately 13 months after Habibie took office. Before the accelerated election took place, the government had first submitted draft laws on Political Parties, draft laws on Elections, and draft laws on the Composition and Position of the MPR, DPR, and DPRD. The three drafts were prepared by a team within the Ministry of Home Affairs known as Team 7, with Prof. Dr. M. Ryaas Rasyid as chairman. After receiving DPR approval and being ratified into law, the president established the General Elections Commission (KPU) with members drawn from representatives of political parties and government elements. The legal basis for the election system in the 1999 Election refers to Law Number 3 of 1999 concerning General Elections.
- e. 2004 Election The 2004 election was the second election of the Reformation era. In this election, the number of participating political parties began to decline compared to the 1999 election. While 48 political parties participated in the 1999 election, this number decreased to 24 in the 2004 election. The 2004 election was held to elect members of the House of Representatives (DPR/DPRD), members of the Regional Representative Council (DPD), and the President and Vice President. Compared to the New Order era, the 2004 election demonstrated a more developed and organized democratic practice. A number of system changes were made compared to the previous period, particularly in the election mechanism for the DPR/DPRD and DPD, as well as the election of the President and Vice President, which was carried out directly by the people, no longer through members of the People's Consultative Assembly (MPR).
- f. 2009 Election In the 2009 Election, the number of participating political parties increased to 38. In its implementation, the 2009 Election still faced various weaknesses, ranging from aspects of socialization, the implementation process, the participation of election actors, to issues of legislation that became the basis for its implementation, which was considered unorganized. Although a number of problems remained, the results of the 2009 Election were generally recognized. However, several parties highlighted the poor management of the voter list by the General Elections Commission (KPU), particularly regarding the Permanent Voters List (DPT). The high number of citizens who did not exercise their right to vote (golput) was also often associated with the KPU's performance, which was seen as unprofessional.
- g. 2014 Election 2014 was a general election to determine members of the representative institutions of the DPR, DPRD, and DPD as well as to elect the President and Vice President. The implementation of the 2014 Election was based on, among others, Law Number 8 of 2012 concerning the General Election of Members of the DPR, DPD, and DPRD (as an amendment to Law Number 10 of 2008), and Law Number 42 of 2008 which was still used because it was still considered adequate as a legal basis for the election of the President and Vice President. In general, the series of Legislative Elections (Pileg) 2014 can be said to have been relatively democratic, safe, and conducive. There was not much significant political turmoil that caused national instability due to objections or disappointment from related parties regarding the process and results of the implementation of the 2014 Pileg.

Based on the explanation in the background of the thesis that has been outlined and explained, the author is interested in conducting this legal research with the title "The Role of the North Sumatra Provincial General Election Supervisory Body in Handling Violations in the 2024 General Election."

FORMULATION OF THE PROBLEM

1. What are the legal regulations regarding the handling of General Election violations committed by the North Sumatra Provincial General Election Supervisory Agency in the 2024 General Election?
2. What is the role of the North Sumatra Provincial General Election Supervisory Agency in handling violations in the 2024 General Election?
3. What is the mechanism for handling election violations committed by the North Sumatra Provincial General Election Supervisory Agency in the 2024 General Election?

RESEARCH METHODS

This study uses an empirical juridical approach, incorporating both statutory and empirical approaches. The juridical approach analyzes the legal provisions governing the role and authority of Bawaslu (Elections Supervisory Agency) in handling election violations, while the empirical approach examines the implementation of these provisions in practice. Primary data were obtained through interviews and observations at Bawaslu in North Sumatra Province, while secondary data were obtained from statutory regulations, Bawaslu regulations, technical guidelines for handling violations, and scientific journals. The data were analyzed qualitatively.

DISCUSSION

A. Legal Regulations for Handling General Election Violations by the North Sumatra Provincial Elections Supervisory Agency (Bawaslu) in the 2024 Elections

The handling of general election violations by the North Sumatra Provincial Election Supervisory Agency (Bawaslu) in the 2024 Election is based on a legal framework consisting of Law Number 7 of 2017 concerning General Elections, Regulation of the General Elections Supervisory Agency Number 3 of 2023 concerning Handling of General Election Violations, and Technical Instructions for Handling Bawaslu Violations Number 169 of 2023. These three legal instruments serve as the normative basis for Bawaslu in carrying out its supervisory and handling functions of election violations.

Law Number 7 of 2017 provides the Bawaslu with general authority to supervise and handle election violations. These provisions are further elaborated in Bawaslu Regulations, which govern procedures, classification of violations, and the types of follow-up actions Bawaslu can take. Meanwhile, the technical instructions for handling violations serve as operational guidelines for Bawaslu's fieldwork. However, research results indicate that these legal regulations do not fully provide legal certainty. There are still regulatory gaps and norms that are open to multiple interpretations, both in the Election Law and its implementing regulations. This situation implies the need for legal interpretation by Bawaslu in implementing regulations for handling violations, potentially leading to differences in the application of norms in practice.

B. The Role of the North Sumatra Provincial Election Supervisory Agency in Handling Violations in the 2024 General Election

The North Sumatra Provincial Elections Supervisory Agency (Bawaslu) plays a strategic role in handling election violations as part of the election oversight system. This role extends beyond overseeing election stages and also encompasses handling any suspected violations that occur during the 2024 election process. In carrying out its role, the North Sumatra Provincial Elections Supervisory Agency (Bawaslu) acts as an institution that receives reports and findings of alleged violations, conducts initial investigations, and follows up on violations according to their type and characteristics. For administrative election violations, Bawaslu's role is to conduct investigations and make decisions, while for other violations, Bawaslu's role is to forward or recommend handling to the appropriate authorities. The research results show that, normatively, the North Sumatra Provincial Elections Supervisory Agency (Bawaslu) has carried out its role in accordance with statutory provisions. However, this role has not been fully implemented optimally due to ongoing normative constraints in the form of unclear legal regulations. This situation impacts the effectiveness of Bawaslu's role in ensuring legal certainty and electoral fairness.

C. The Election Supervisory Agency (Bawaslu) of North Sumatra Province will handle general election violations in the 2024 elections.

The North Sumatra Provincial Elections Supervisory Agency (Bawaslu)'s handling of election violations in the 2024 Elections will be implemented through stages established by law. This process begins with the receipt of reports and/or findings of alleged election violations, followed by an examination of formal and material completeness. After the report or findings are deemed to meet the requirements, the North Sumatra Provincial Elections Supervisory Agency (Bawaslu) conducts a clarification process with the reporter, the respondent, and related parties to obtain the necessary facts. Based on the clarification and analysis, Bawaslu then determines the type of violation, including election administration violations, code of ethics violations, and suspected election crimes. Bawaslu has the authority to issue a decision regarding election administration violations, while for other violations, Bawaslu submits recommendations to the relevant authorities.

In principle, this mechanism has been implemented in accordance with applicable regulations. However, in practice, obstacles remain in the form of legal gaps and norms open to multiple interpretations, such as the provision prohibiting the involvement of State Civil Apparatus (ASN) in campaigning, which does not provide clear boundaries regarding actions deemed to benefit or harm election participants. These obstacles impact legal certainty in the implementation of the mechanism for handling election violations.

CLOSING

Conclusion

1. The North Sumatra Provincial Elections Supervisory Agency (Bawaslu) has implemented a violation handling mechanism based on applicable regulations, such as Law No. 7 of 2017 concerning Elections and the Bawaslu Regulation concerning procedures for handling violations. This procedure includes reporting, findings, initial assessment, violation classification, and follow-up actions based on the type of violation (administrative, ethical, or criminal).
2. Based on the research findings on the role of the North Sumatra Provincial Elections Supervisory Agency (Bawaslu) in handling violations in the 2024 election, it can be concluded that Bawaslu has a normative function of monitoring and resolving election violations, but its implementation has not been optimal. Although the Provincial Bawaslu has carried out the stages of monitoring, receiving reports, conducting clarifications, conducting investigations, and issuing decisions on alleged election violations, its actual authority remains limited.
3. These limitations are evident because Bawaslu's decisions are only recommendatory, not final and binding. Consequently, the effectiveness of handling violations depends heavily on follow-up from other institutions (such as the General Elections Commission or law enforcement officials), resulting in many violations not being followed up proportionally or even resulting in no real legal consequences. This situation has implications for a low deterrent effect and undermines Bawaslu's authority as an election supervisory body. In addition to these factors, this study also found that the numerous articles open to multiple interpretations in the Election Law also weaken Bawaslu's role in handling violations. Different interpretations of legal norms, particularly regarding the types of violations, limits of authority, and enforcement mechanisms, often lead to misunderstandings between Bawaslu, the General Elections Commission, law enforcement officials, and election participants. This results in legal uncertainty and hinders the implementation of supervision and the firm and consistent resolution of violations. Thus, it can be emphasized that the role of the North Sumatra Provincial Election Supervisory Agency (Bawaslu) in handling violations of the 2024 Election is still substantially weak, due to the decision being only recommendative in nature and the existence of articles in the Election Law that are open to multiple interpretations, thus not providing legal certainty and not having direct consequences for perpetrators of violations.

Suggestion

Based on the research conclusions regarding the Role of the North Sumatra Provincial Election Supervisory Agency (Bawaslu) in Handling Election Violations in 2024, the researcher proposes the following suggestions:

1. To the Legislators: Revision and harmonization of the Election Law, particularly articles subject to multiple interpretations, are necessary to avoid legal uncertainty in the implementation of election supervision and handling of violations. It is crucial to grant stronger adjudicatory authority to the Elections Supervisory Agency (Bawaslu) so that decisions on election violations are final and binding, not merely recommendations.
2. To the Election Supervisory Agency (Bawaslu) of the Republic of Indonesia and the Provincial Election Supervisory Agency (Bawaslu), human resource capacity needs to be improved, both in terms of legal expertise, investigations, and case-handling techniques, so that violations can be handled more professionally and objectively. Bawaslu is expected to strengthen its technology-based oversight system and increase public education and participatory oversight to expedite reporting and handling of violations.
3. The General Elections Commission (KPU) and Law Enforcement Officers (Gakkumdu) need to strengthen institutional synergy and coordination with the Elections Supervisory Agency (Bawaslu) in handling violations, particularly those related to administrative and criminal violations, so that Bawaslu's recommendations can be followed up quickly and accurately. A regular monitoring and evaluation mechanism is needed for the follow-up to Bawaslu's decisions/recommendations to avoid stagnation in handling violations.

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